

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2019

CORAM :

THE HON'BLE MR. JUSTICE M. DURAISWAMY

C.R.P. (PD) No.3847 of 2013

and

M.P. No.1 of 2013

- 1.Nasi
- 2.Palani
- 3.Thukkan
- 4.Mari

... Revision Petitioners

Vs.

- 1.Kariyala Palani
- 2.Alamelu
- 3.Palaniammal (Died)
- 4.The District Collector,
Vellore.
- 5.The Assistant Engineer,
Tamil Nadu Electricity Board,
Kurisilapattu.

6.Tirupathi

7.Rajasekaran

8.Unnamalai

... Respondents

[R6 to R8 brought on record as LR's of the deceased R3,
viz., Palaniammal, vide Court order dated 30.10.2019
made in CMP.No.13844 of 2017 in CRP No.3847 of 2013]

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of the learned Principal District Munsif, Tirupattur, made in I.A.No.135 of 2013 in O.S.No.21 of 2013, dated 13.08.2013.

For Petitioners : Mr.G.Jeremiah
For R1, R2, R6 to R8 : Mr.G.K.Sekar
R3 : Died
For R4 : Mr.Dev Narendran
Government Advocate
For R5 : Mr.V.Viswanathan

ORDER

Challenging the fair and final order passed in I.A.No.135 of 2013 in O.S.No.21 of 2013 on the file of the Principal District Munsif's Court, Tirupattur, the plaintiffs have filed the above Civil Revision Petition.

2.The plaintiffs filed the suit in O.S.No.21 of 2013 for declaration and for recovery of possession. The defendants filed their written statement and are contesting the suit. In the said suit, the plaintiffs took out an application in I.A.No.135 of 2013, seeking appointment of Advocate Commissioner to note down the physical features. Admittedly, the defendants 1 to 3 have constructed four houses and are in occupation of the same. In order to

ascertain the actual extent of the super-structure put up by the defendants 1 to 3, the plaintiffs have filed the application, seeking appointment of Advocate Commissioner. The application filed by the plaintiffs was opposed by the defendants 1 to 3, stating that there is no necessity for appointing an Advocate Commissioner. The trial Court, taking into consideration the case of both the parties, dismissed the application, finding that there is no necessity for appointing an Advocate Commissioner.

3.That apart, though the defendants have stated that they have put up construction and are in occupation of the four houses, they have not given the actual measurement of their houses. Therefore, it would be appropriate to appoint an Advocate Commissioner to note down the physical features of the four houses, constructed by the defendants 1 to 3. By measuring the extent of the houses put up by the defendants 1 to 3, no prejudice would be caused to them. It would only help the trial Court in deciding the matter in a proper manner. Under these circumstances, the trial Court should have allowed the application.

4.For the reasons stated above, the fair and decretal order passed in I.A.No.135 of 2013 in O.S.No.21 of 2013 are set aside and the application in I.A.No.135 of 2013 stands allowed. Consequently, this Civil Revision Petition

is allowed. No costs. Connected miscellaneous petition is closed.

05.11.2019

mkn

Index : Yes / No

Internet : Yes / No

Speaking order / Nonspeaking order

To

The Principal District Munsif,
Tirupattur.

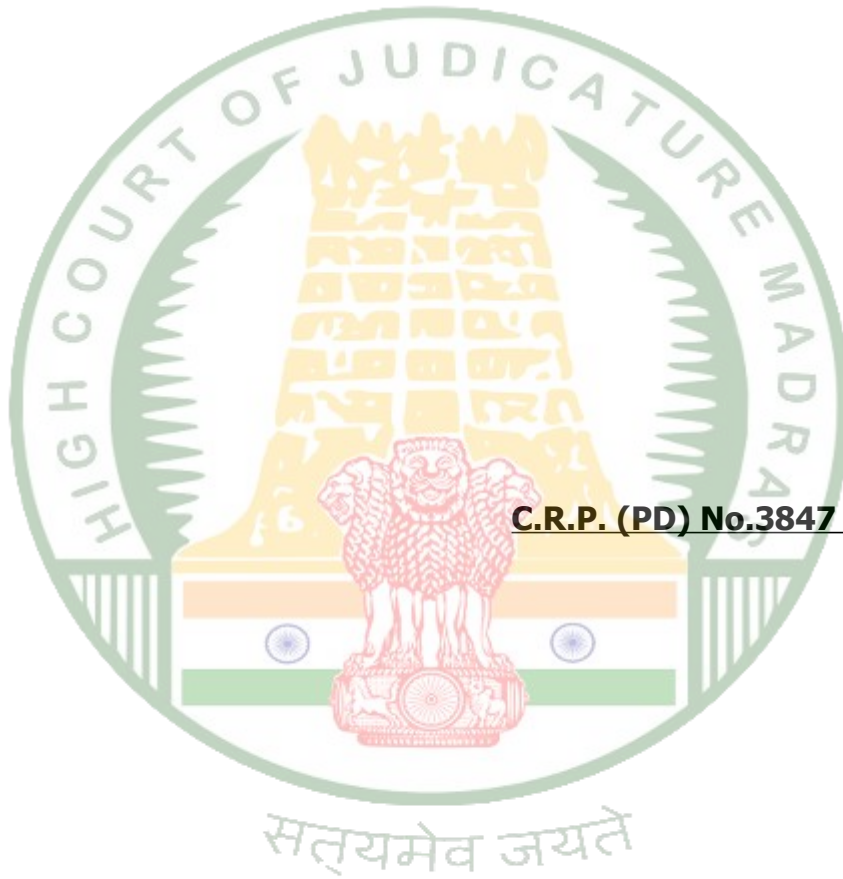


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M. DURAISWAMY, J.

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